

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
MIDLAND-ODESSA DIVISION

TERRY MEEKS,  
Plaintiff,

VS.

IBN UTHMAN KEARSE AND  
CAMERON LOGISTICS, LLC,  
Defendants.

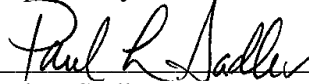
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 7:20-CV-00113

**PLAINTIFF'S AMENDED PROPOSED QUESTIONS, INSTRUCTIONS  
AND DEFINITIONS**

PLAINTIFF, TERRY MEEKS, submit these Proposed Questions, Instructions, and  
Definitions to be used upon the trial of this case.

Respectfully Submitted,



Paul L. Sadler

State Bar No. 17512400

SADLER & SADLER

Of Counsel – Carabin & Shaw, P.C.

4372 N Loop 1604 W, Ste. 100

San Antonio, Texas 78249

Tel: (210) 908-7000 | Fax: (210) 200-8695

[ps@sadlerandsadler.com](mailto:ps@sadlerandsadler.com)

[css@sadlerandsadler.com](mailto:css@sadlerandsadler.com)

E-service: [sadlerandsadler.com](http://sadlerandsadler.com)

**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to all counsel in accordance with the Federal Rules of Civil Procedure on this the 22<sup>nd</sup> day of July, 2022.

*Via e-service*

**Leonard R. (Bud) Grossman**

**SBN: 00784182**

**Jonathan Galley**

**SBN: 24074243**

**CRAIG, TERRILL, HALE & GRANTHAM, LLP**

**FirstBank Centre**

**9816 Slide Road, Ste 201**

**Lubbock, TX 79424**

**Telephone: (806) 744-3232**

**Facsimile: (806) 744-2211**

**[BudG@CTHGLawfirm.com](mailto:BudG@CTHGLawfirm.com)**

**Attorneys for Defendants**



**PAUL L. SADLER**

## **COURT'S CHARGE**

### **MEMBERS OF THE JURY:**

It is my duty and responsibility to instruct you on the law you are to apply in this case. The law contained in these instructions is the only law you may follow. It is your duty to follow what I instruct you the law is, regardless of any opinion that you might have as to what the law ought to be.

If I have given you the impression during the trial that I favor either party, you must disregard that impression. If I have given you the impression during the trial that I have an opinion about the facts of this case, you must disregard that impression. You are the sole judges of the facts of this case. Other than my instructions to you on the law, you should disregard anything I may have said or done during the trial in arriving at your verdict.

You should consider all of the instructions about the law as a whole and regard each instruction in light of the others, without isolating a particular statement or paragraph.

The testimony of the witnesses and other exhibits introduced by the parties constitute the evidence. The statements of counsel are not evidence; they are only arguments. It is important for you to distinguish between the arguments of counsel and the evidence on which those arguments rest. What the lawyers say or do is not evidence. You may, however, consider their arguments in light of the evidence that has been admitted and determine whether the evidence admitted in this trial supports the arguments. You must determine the facts from all the testimony that you have heard and the other evidence submitted. You are the judges of the facts, but in finding those facts, you must apply the law as I instruct you.

You are required by law to decide the case in a fair, impartial, and unbiased manner, based entirely on the law and on the evidence presented to you in the courtroom. You may not be influenced by passion, prejudice, or sympathy you might have for the plaintiff or the defendant in arriving at your verdict.<sup>1</sup>

<sup>1</sup> FIFTH CIRCUIT PATTERN JURY INSTRUCTIONS (CIVIL) 3.1 (2014)

## INSTRUCTIONS

### IMPEACHMENT BY WITNESS'S INCONSISTENT STATEMENTS

In determining the weight to give to the testimony of a witness, consider whether there was evidence that at some other time the witness said or did something, or failed to say or do something, that was different from the testimony given at the trial.

A simple mistake by a witness does not necessarily mean that the witness did not tell the truth as he or she remembers it. People may forget some things or remember other things inaccurately. If a witness made a misstatement, consider whether that misstatement was an intentional falsehood or simply an innocent mistake. The significance of that may depend on whether it has to do with an important fact or with only an unimportant detail.<sup>2</sup>

### DEPOSITION TESTIMONY

Certain testimony has been presented to you through a deposition. A deposition is the sworn, recorded answers to questions a witness was asked in advance of the trial. Under some circumstances, if a witness cannot be present to testify from the witness stand, that witness's testimony may be presented, under oath, in the form of a deposition. Sometime before this trial, attorneys representing the parties in this case questioned this witness under oath. A court reporter was present and recorded the testimony. The questions and answers have been read (shown) to you today. This deposition testimony is entitled to the same consideration and is to be judged by you as to credibility and weighed and otherwise considered by you insofar as possible in the same way as if the witness had been present and had testified from the witness stand in court.<sup>3</sup>

### BURDEN OF PROOF: PREPONDERANCE OF THE EVIDENCE

Plaintiff has the burden of proving his case by a preponderance of the evidence. To establish by a preponderance of the evidence means to prove something is more likely so than not so. If you find that Plaintiff has failed to prove any element of his claim by a preponderance of the evidence, then he may not recover on that claim.<sup>4</sup>

<sup>2</sup> FIFTH CIRCUIT PATTERN JURY INSTRUCTIONS (CIVIL) 2.11 (2014)

<sup>3</sup> FIFTH CIRCUIT PATTERN JURY INSTRUCTIONS (CIVIL) 2.13 (2014)

<sup>4</sup> FIFTH CIRCUIT PATTERN JURY INSTRUCTIONS (CIVIL) 3.2 (2014)

## EVIDENCE

The evidence you are to consider consists of the testimony of the witnesses, the documents and other exhibits admitted into evidence, and any fair inferences and reasonable conclusions you can draw from the facts and circumstances that have been proven.

Generally speaking, there are two types of evidence. One is direct evidence, such as testimony of an eyewitness. The other is indirect or circumstantial evidence. Circumstantial evidence is evidence that proves a fact from which you can logically conclude another fact exists. As a general rule, the law makes no distinction between direct and circumstantial evidence, but simply requires that you find the facts from a preponderance of all the evidence, both direct and circumstantial.<sup>5</sup>

## EXPERT WITNESSES

When knowledge of technical subject matter may be helpful to the jury, a person who has special training or experience in that technical field is permitted to state his or her opinion on those technical matters. However, you are not required to accept that opinion. As with any other witness, it is up to you to decide whether to rely upon it.<sup>6</sup>

If you need to communicate with me during your deliberations, the presiding juror should write the inquiry and give it to the court security officer. After consulting with the attorneys, I will respond either in writing or by meeting with you in the courtroom. Keep in mind, however, that you must never disclose to anyone, not even to me, your numerical division on any question.

## CONSIDER DAMAGES ONLY IF NECESSARY

If Plaintiff has proved his claim against Defendant by a preponderance of the evidence, you must determine the damages to which Plaintiff is entitled. You should not interpret the fact that I am giving instructions about Plaintiff's damages as an indication in any way that I believe that Plaintiff should, or should not, win this case. It is your task first to decide whether Defendant is liable. I am instructing you on damages only so that you will have guidance in the event you decide that Defendant is liable and that Plaintiff is entitled to recover money from Defendant.<sup>7</sup>

<sup>5</sup> FIFTH CIRCUIT PATTERN JURY INSTRUCTIONS (CIVIL) 3.3 (2014)

<sup>6</sup> FIFTH CIRCUIT PATTERN JURY INSTRUCTIONS (CIVIL) 3.5 (2014)

<sup>7</sup> FIFTH CIRCUIT PATTERN JURY INSTRUCTIONS (CIVIL) 15.1 (2014)

## COMPENSATORY DAMAGES

If you find that Defendant is liable to Plaintiff, then you must determine an amount that is fair compensation for all of Plaintiff's damages. These damages are called compensatory damages. The purpose of compensatory damages is to make Plaintiff whole—that is, to compensate Plaintiff for the damage that he has suffered. Compensatory damages are not limited to expenses that Plaintiff may have incurred because of his injury. If Plaintiff wins, he is entitled to compensatory damages for the physical injury, pain and suffering, and mental anguish that he has suffered because of Defendant's wrongful conduct.

You may award compensatory damages only for injuries that Plaintiff proves were proximately caused by Defendant's allegedly wrongful conduct. The damages that you award must be fair compensation for all of Plaintiff's damages, no more and no less. Damages are not allowed as a punishment and cannot be imposed or increased to penalize Defendant. You should not award compensatory damages for speculative injuries, but only for those injuries that Plaintiff has actually suffered or that Plaintiff is reasonably likely to suffer in the future.

If you decide to award compensatory damages, you should be guided by dispassionate common sense. Computing damages may be difficult, but you must not let that difficulty lead you to engage in arbitrary guesswork. On the other hand, the law does not require that Plaintiff prove the amount of his losses with mathematical precision, but only with as much definiteness and accuracy as the circumstances permit.

You must use sound discretion in fixing an award of damages, drawing reasonable inferences where you find them appropriate from the facts and circumstances in evidence.

## DEFINITIONS

"NEGLIGENCE," when used with respect to the conduct of IBN UTHMAN KEARSE, means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.<sup>8</sup>

"ORDINARY CARE," when used with respect to the conduct of IBN UTHMAN KEARSE, means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.<sup>9</sup>

"PROXIMATE CAUSE," means a cause that was a substantial factor in bringing about an occurrence, and without which cause such occurrence would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using *ordinary care* would have foreseen that the occurrence, or some similar occurrence, might reasonably result therefrom. There may be more than one proximate cause of an occurrence.<sup>10</sup>

<sup>8</sup> TEXAS PATTERN JURY CHARGES PJC 66.4 (2014)

<sup>9</sup> TEXAS PATTERN JURY CHARGES PJC 66.4 (2014)

<sup>10</sup> TEXAS PATTERN JURY CHARGES PJC 2.4; 65.4 (2014)

**QUESTION NO. 1**

Did the negligence, if any, of Defendant, IBN UTHMAN KEARSE, proximately cause the occurrence in question?

Answer: \_\_\_\_\_

**QUESTION NO. 2**

What sum of money, if paid now in cash, would fairly and reasonably compensate TERRY MEEKS for his injuries, if any, that resulted from the occurrence in question?

Consider the elements of damages listed below and none other. Consider each element separately. Do not award any sum of money on any element if you have otherwise, under some other element, awarded a sum of money for the same loss. That is, do not compensate twice for the same loss, if any. Do not include interest on any amount of damages you find.

Do not include any amount for any condition existing before the occurrence in question, except to the extent, if any, that such other condition was aggravated by any injuries that resulted from the occurrence in question.<sup>11</sup>

Answer separately, in dollars and cents, for damages, if any. Do not reduce the amounts, if any, in your answers because of the negligence, if any, of TERRY MEEKS. Any recovery will be determined by the court when it applies the law to your answers at the time of judgment.

a. Physical pain sustained in the past.

Answer: \_\_\_\_\_

b. Physical pain that, in reasonable probability, TERRY MEEKS, will sustain in the future.

Answer: \_\_\_\_\_

<sup>11</sup> TEXAS PATTERN JURY CHARGE PJC 28.9

c. Reasonable and necessary medical expenses paid or incurred in the past.

Answer: \_\_\_\_\_

d Reasonable and necessary medical expenses that, in reasonable probability, TERRY MEEKS, will pay or incur in the future.

Answer: \_\_\_\_\_

e. Loss of earnings in the past.

Answer: \_\_\_\_\_

f. Loss of earning capacity, in reasonable probability, TERRY MEEKS, will sustain in the future.

Answer: \_\_\_\_\_<sup>18</sup>

<sup>18</sup> TEXAS PATTERN JURY CHARGES PJC 28.3 & comments; 80.3 & comments (2014) and TEX. CIV. PRAC. & REM. CODE ANN. § 41.0105 (West).



## DUTY TO DELIBERATE

It is now your duty to deliberate and to consult with one another in an effort to reach a verdict. Each of you must decide the case for yourself, but only after an impartial consideration of the evidence with your fellow jurors. During your deliberations, do not hesitate to re-examine your own opinions and change your mind if you are convinced that you were wrong. But do not give up on your honest beliefs because the other jurors think differently, or just to finish the case.

Remember at all times, you are the judges of the facts. You have been allowed to take notes during this trial. Any notes that you took during this trial are only aids to memory. If your memory differs from your notes, you should rely on your memory and not on the notes. The notes are not evidence. If you did not take notes, rely on your independent recollection of the evidence and do not be unduly influenced by the notes of other jurors. Notes are not entitled to greater weight than the recollection or impression of each juror about the testimony.

When you go into the jury room to deliberate, you may take with you a copy of this charge, the exhibits that I have admitted into evidence, and your notes. You must select a presiding juror to guide you in your deliberations and to speak for you here in the courtroom.

Your verdict must be unanimous. After you have reached a unanimous verdict, your presiding juror must fill out the answers to the written questions on the verdict form and sign and date it. After you have concluded your service and I have discharged the jury, you are not required to talk with anyone about the case.

After you retire to the jury room, you will select your own presiding juror. The first thing the presiding juror will do is to have this complete charge read aloud and then you will deliberate upon your answers to the question asked.

It is the duty of the presiding juror—

1. to preside during your deliberations,
2. to see that your deliberations are conducted in an orderly manner and in accordance with the instructions in this charge,
3. to write out and hand to the bailiff any communications concerning the case that you desire to have delivered to the judge,
4. to vote on the questions,
5. to write your answers to the questions in the spaces provided, and
6. to certify to your verdict in the space provided for the presiding juror's signature or to obtain the signatures of all the jurors who agree with the verdict if your verdict is less than unanimous.

You should not discuss the case with anyone, not even with other members of the jury, unless all of you are present and assembled in the jury room. Should anyone attempt to talk to you about the case before the verdict is returned, whether at the courthouse, at your home, or elsewhere, please inform the judge of this fact.

When you have answered all the questions you are required to answer under the instructions of the judge and your presiding juror has placed your answers in the spaces provided and signed the verdict as presiding juror or obtained the signatures, you will inform the bailiff at the door of the jury room that you have reached a verdict, and then you will return into court with your verdict.

You may now proceed to the jury room to begin your deliberations.<sup>12</sup>

---

**PRESIDING JUDGE**

<sup>12</sup> FIFTH CIRCUIT PATTERN JURY INSTRUCTIONS (CIVIL) 3.7 (2014)

Certificate

We, the jury, have answered the above and foregoing questions as herein indicated, and herewith return same into court as our verdict.

(To be signed by the presiding juror if unanimous.)

---

PRESIDING JUROR

(To be signed by those rendering the verdict if not unanimous.)

<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>